

P.R No-2032 of 2019
(State of Assam Vs Sri Satyajit Saikia & Anr)

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR:: TEZPUR

P. R. Case No-2032 of 2019

Under section-498(A)/341/323/294 of I.P.C

Present:- **Sri N. J. Haque, AJS,**
Chief Judicial Magistrate,
Sonitpur, Tezpur

State of Assam

-Vs-

1. Smt. Babita Saikia
2. Sri Satyajit Saikia

Both are R/O:- Gabharu Shiv Mandir

P/S:- Tezpur

Dist:-Sonitpur, Assam

.....Accused Persons

Advocate appeared:

Mr. N. K. Mishra, Addl. P.P For the State

Mr. P. Biswas & Ors, Ld. Senior Advocates..... For the accused persons

Evidence recorded on :- 21.08.2021

Date of Statement of defence :- 21.08.2021

Argument heard on :- 21.08.2021

Judgment delivered on :- 21.08.2021

J U D G M E N T

History of Prosecution's Case

1. Prosecution's case appears to be in a narrow campus is that one Smt. Rina Medhi, lodged an ejahar before the O/C of Tezpur P.S, alleging inter alia that on 08.02.2018 her daughter named Smt. Purabi Medhi got married with Sri Satyajit Saikia as per Hindu rites and rituals and just after few days of her marriage, the accused persons started to torture her daughter both mentally and physically by demanding dowry. It is also stated that accused Satyajit Saikia also threatened her daughter of dire consequences. It is further alleged that the accused persons also

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started scolding them using filthy languages in front of their house. It is also stated that on 10.10.2019 accused wrongfully restrained her son on the road and started physically assaulting her son and due to that her son sustained severe injury.

“INVESTIGATION”

2. On receipt of the ejahar, Tezpuri P.S Case No-2199 of 2019 u/s-498(A)/341/352/323/294 of Indian Penal Code was registered and investigation into. On completion of the investigation, the I.O. of this case submitted charge sheet u/s-498(A)/341/323/294 of I.P.C against the above-named accused persons.

CHARGE & TRIAL

3. In pursuant to the court's process, the accused persons appeared before the court and they were allowed to go on bail. Copies u/s-207 of CrPC was furnished to the above named accused persons. After hearing both side, charge of offences u/s-498(A)/341/294/323 of I.P.C. was read over and explained to the accused persons by my Ld. Predecessor in office, to which they pleaded not guilty and claimed to be tried.

STATEMENT OF DEFENCE

4. The prosecution side to prove the guilty of the accused persons examined the informant and victim of this case. Considering the testimonies of the informant and the victim, prosecution side declined to adduce further evidence before this court. Hence, the evidence of prosecution side is closed. Accused persons were examined u/s-313 Cr.P.C and their pleas of denial were recorded in separate sheet and the same kept with the case record. Accused declined to adduce evidence on their defence.

ARGUMENT

5. I have heard arguments of both sides, gone through the case record in the backdrop of evidences presented before this court by prosecution side.

6. **The points for determination in this case are:**

- (i) Whether on 08.02.2018 accused persons, namely, Satyajit Saikia and Smt. Babita Saikia being the husband and the mother-in-law of informant's daughter named

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Smt. Purabi Medhi subjected her both mental physical torture by demanding dowry and thereby committed an offence under section-498(A) of I.P.C?

(ii) Whether on 10.11.2019 at about 11 AM, accused persons wrongfully restrained the informant's son and thereby committed an offence punishable under section-341 of IPC?

(iii) Whether on the same date, time and place, the accused person voluntarily caused simple hurt to the informant's daughter named Smt. Purabi Medhi by way of beating her and thereby committed an offence punishable u/s-323 of IPC?

(iv) Whether on the same date, time and place, the accused persons scolded the informant and the victim using filthy languages in front of their house and thereby committed an offence punishable u/s-294 of IPC?

DECISION AND THE REASONS THEREON:

7. The essence of the offence under Section-498A of Penal Code, 1860, lies in the Explanation to section-498A, which defines cruelty as follows; Explanation- For the purposes of this section, "cruelty" means- (a) Any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. (c) The definition of cruelty, provided in the Explanation, as reproduced above, is replete with the idea of a continuous and wilful conduct on the part of the husband or his relative towards the wife. The offence conceived of is not a single episode but a series of episodes of violent nature which is likely to result in the following consequences. • to drive the woman to commit suicide or •

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to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman;

8. Thus, the situation, created by conduct of the accused, must be such which the accused knows that it would drive the wife to commit suicide or would cause grave injury or danger to life, limb or health. The injury or danger to health has been qualified by the words mental and physical. The word 'likely' appearing in clause (a) conveys the idea that accused has knowledge that his conduct would result in the consequences envisaged in clause (a).

9. The second clause speaks of harassment to a wife. The word harassment, I believe, has not been used in its exact dictionary meaning rather used in the understanding of common parlance whereby a wife is continuously tormented with demands of dowry, irrespective of the fact whether such unlawful demand is accompanied by any physical torture.

10. Thus, it would be seen that if the prosecution seeks to prove a charge for the offence u/s-498A IPC, it is required to prove either of the circumstances envisaged in clause (a) or (b). It may be noted here that proof of cruelty would be satisfied by proving either of the circumstances in clause (a) or (b).

11. In the light of the law understood, as above, it would be now necessary to look into the prosecution evidence as to whether the evidence meets the requirement of law.

12. In this case the prosecution has the burden to demonstrate that the accused persons imperilled bodily and psychological torture upon the informant's daughter Smt. Purabi Medhi with intend to accomplish his stress on different dates during her conjugal life with the accused.

13. Prosecution side to prove the case examined the informant and the victim in support of this case. I have carefully travelled through the testimonies of the informant and the victim in the backdrop of entire prosecution case and it finds:-

14. PW-1, Smt. Rina Medhi, who in her testimony deposed that she lodged the ejarah against her son-in-law and his mother. She also deposed that her daughter named Purabi Medhi got married with accused Satyajit Saikia around two years back and thereafter, her daughter is leading her conjugal life with him for about

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one and half years and due to some domestic quarrelled with the accused persons, she lodged the ejahar against them on misunderstanding. She also deposed that presently, her daughter is leading her conjugal life with the accused persons peacefully at her matrimonial house and now, she does not want to proceed further with the case against the accused persons. She identified her ejahar as Ext-1 wherein she put her signature as Ext-1(1). PW-1 in her cross-examination testified that she does not have any objection if the accused persons are acquitted from this case.

15. PW-2, Smt. Purabi Medhi being the victim of this case deposed that the informant is her mother and the accused persons are her husband and her mother-in-law. She also deposed that she got married with accused Satyajit Saikia around three years back and due to some domestic issues, she went to her parents' house for which her mother lodged the ejahar against the accused persons on misunderstanding. She further deposed that presently, she is leading her conjugal life with the accused persons peacefully at her matrimonial house and now, she does not want to proceed with the case against the accused persons. PW-2 in her cross-examination testified that she does not have any objection if the accused persons are acquitted from this case.

16. Hence, it apparently appears before this court that PW-1 filed this case against the accused persons due to misunderstanding and PW-2 being the victim of this case simply deposed before this court that her mother lodged this case against the accused persons on misunderstanding. PW-1 and PW-2 further deposed that they do not want to proceed with this case against the accused persons as PW-2 is leading her conjugal life peacefully with the accused persons. PW-1 and PW-2 in their cross-examination categorically admitted that they do not have any objection if the accused persons are acquitted from this case.

17. To sum up the testimonies of the PW-1 & 2, it reveals before this court that the informant and the victim themselves appears to be contradictory with the entire contentions of the ejahar and that makes their evidences doubtful and untrustworthy in nature.

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18. Hence, considering the above said discussions as well as evidences on record, it can be conclusively decided here that the prosecution side failed to establish any one of the circumstances discussed in explanation (a) or (b) of 498(A) IPC.

19. In view of the above, evidence on record, I am of the opinion that prosecution has failed to prove the charge against the accused persons beyond reasonable doubt and as such the accused persons are acquitted from the charge u/s- 498(A)/341/323/294 of IPC and sets at liberty. Surety is extended for six months in view of section 437A of Cr PC.

20. Accordingly, the case is disposed of Judgment is prepared and pronounced in open court. Given under my hand and seal of this court on this 21st day of August, 2021.

(Sri N. J. Hoque)
Chief Judicial Magistrate,
Sonitpur: Tezpur

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ANNEXURE

1. Witnesses for Prosecution:-

PW-1:- Smt. Rina Medhi, Informant

PW-2:- Smt. Purabi Medhi, Victim

2. Witnesses for Defence: NIL

3. Court Witnesses: NIL

4. Prosecution Exhibits:

Ext-1 :- FIR

Ext-1(1-2) :- Signatures of PW-1

5. Defence Exhibits: NIL

6. Material Exhibits: NIL

Chief Judicial Magistrate
Sonitpur, Tezpur